

STATE OF MAINE

LOBBYIST DISCLOSURE PROCEDURES

3 M.R.S.A. Sections 311 - 326



COMMISSION ON GOVERNMENTAL ETHICS AND ELECTION PRACTICES

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INDEX TO LOBBYIST DISCLOSURE PROCEDURES

CHAPTER 15

<u>Subject</u>	<u>Section Number</u>	<u>Page</u>
Attorney General .	..... 322(2) ..	11
Commission: powers and duties	. 321	..... 10-11
Complaints ....	..... 322(1)	11
Declaration of purpose	..... 311	1
Definitions	..... 312-A	... 1-5
Exemption .....	.... 319(3)	10
Facsimile copies ....	..... 317(3) .	9
Fees: registration .	..... 313	.... 5
Disposition	320 10	
Penalties		
Failure to file registration or report .....	..... 319(1)	10
Notice of suspension .....	..... 319(1-A)	10
Registration		
Content of	316	6-7
Docket	315	6
Duration of	314	5-6
Lobbyist/employer	313	5
State employee	313-A	5
Reports, content of		
Annual	317(2)	8
Monthly	317(1)	7-8
Reporting deadlines		
Annual	317(2)	8-9
Monthly	317(1)	7-8
Nonsession	317(4)	9
Restricted activities ..	..... 318	. 9
Suspension (see "Penalties")		
Termination .....	..... 314	..... 5-6
Waiver: monthly nonsession reports	..... 317(4) .	..... 9

CHAPTER 15

LOBBYIST DISCLOSURE PROCEDURES

3 § 311. Declaration of purpose

The Constitution of Maine guarantees the right of the people to petition their government for the redress of grievances and to freely express their opinions on legislation and issues. The Legislature reaffirms its obligation to hear the requests and opinions of all of the people, and to preserve and maintain the integrity and accessibility of the legislative process.

The Legislature recognizes that groups of citizens may choose one among them to present their views to Legislators, and, because of the amount and complexity of proposed legislation, may employ persons knowledgeable in the legislative process to present their views. Such activities are proper methods of expressing the opinion of a group of citizens.

The Legislature also recognizes that such activities must be carried out openly so that other citizens are aware of the opinions and requests made in this manner. Legislative decisions can fully reflect the will of all the people only if the opinions expressed by any citizen are known to all and debated by all, and if the representatives of groups of citizens are identified and their expenditures and activities are regularly disclosed.

Therefore, the Legislature declares that, in order to insure the full participation of all the people of the State in the legislative process, full disclosure of the identity, expenditures and activities of any persons who engage in professional lobbying is required. Such disclosure will insure the openness and integrity of the legislative process and encourage the expression of the will of all the people of the State.

3 § 312. Definitions (REPEALED)

3 § 312-A. Definitions

As used in this chapter, unless the context otherwise indicates, the following words have the following meanings.

1. Campaign fund raising activity. "Campaign fund raising activity" means any event or solicitation by letter or any other means that is held for the purpose of receiving contributions for a political party, political committee, political action committee, candidate for political office in any primary or election, any elected official or a referendum committee.

1-A. Campaign contribution. "Campaign contribution" is a contribution, as defined in Title 21-A, section 1012, subsection 2.

2. Committee. "Committee" means any committee, subcommittee, joint or select committee of the Legislature or any special committee or commission, by whatever name, established by the Legislature to make recommendations for legislative action or to develop legislation.

2-A. Commission. "Commission" means the Commission on Governmental Ethics and Election Practices as defined in Title 1, chapter 25.

3. Communicate. "Communicate" means the act of expressing, imparting or conveying information or impressions from one person to another, by either oral or written means.

4. Compensation. "Compensation" means anything of value that is received or to be received in return for, or in connection with, services rendered or to be rendered.

5. Employer. "Employer" means a person who agrees to reimburse for expenditures or to compensate a person who in return agrees to provide services. Employer includes any political action committee as defined in this section which communicates through or uses the services of a lobbyist to make campaign contributions or to influence in any way the political process.

6. Employment. "Employment" means an agreement to provide services in exchange for compensation or reimbursement of expenditures.

7. Expenditure. "Expenditure" means anything of value or any contract, promise or agreement to transfer anything of value, whether or not legally enforceable. Expenditure includes:

A. Repealed.

B. A payment of compensation to a lobbyist by a person employing, retaining or contracting for the services of the lobbyist separately or jointly with other persons;

C. A payment for or in connection with soliciting or urging other persons to enter into direct communication with a public official.

7-A. Immediate family. "Immediate family" means a person's spouse and dependent children.

8. Legislative action. "Legislative action" means the drafting, introduction, consideration, modification, enactment or defeat of any bill, resolution, amendment, report, nomination or other matter by the Legislature, by either the House of Representatives or the Senate, any committee or an official in the Legislative Branch acting in his official capacity, or action of the Governor in approving or vetoing any legislative document presented to the Governor for his approval.

9. Lobbying. "Lobbying" means to communicate directly with any official in the Legislature for the purpose of influencing any legislative action or with the Governor for the purpose of influencing the approval or veto of a legislative action when reimbursement for expenditures or compensation is made for those activities. It includes the time spent to prepare and submit to the Governor, a Legislator or a legislative

committee oral and written proposals for, or testimony or analyses concerning, a legislative action.

10. Lobbyist. "Lobbyist" means any person who is specifically employed by another person for the purpose of and who engages in lobbying in excess of 8 hours in any calendar month, or any individual who, as a regular employee of another person, expends an amount of time in excess of 8 hours in any calendar month in lobbying. "Lobbyist" does not include a lobbyist associate.

10-A. Lobbyist associate. "Lobbyist associate" means an individual who:

- A. Is a partner, associate or employee of a lobbyist or is a coemployee of a regular employee of another person if that regular employee is registered as a lobbyist;
- B. Lobbies on behalf of the employer named on the lobbyist registration; and
- C. Expends more than 8 hours in any calendar month lobbying on behalf of an employer of the lobbyist.

10-B. Media outlet. "Media outlet" means a radio or television station, a cable television system, newspapers, magazines and other published written materials.

11. Official in the Legislative Branch. "Official in the Legislative Branch" means a member, member-elect, candidate for or officer of the Legislature or an employee of the Legislature.

11-A. Original source. "Original source" means any person who contributes \$500 or more in any year directly or indirectly to any employer of a lobbyist, except that contributions of membership dues to nonprofit corporations formed under Title 13-B, any equivalent state law or by legislative enactment are not considered contributions by an original source.

12. Person. "Person" means an individual, corporation, proprietorship, joint stock company, business trust, syndicate, association, professional association, labor union, firm, partnership, club or other organization, whether profit or nonprofit, or any municipality or quasi-municipality or group of persons acting in concert, but does not include this State or any other agency of this State.

13. Political Action Committee. "Political Action Committee" includes:

- A. Any separate or segregated fund established by any corporation, membership organization, cooperative or labor organization whose purpose is to influence the outcome of an election, including a candidate or question; and
- B. Any person, as defined in subsection 12 which serves as a funding and transfer mechanism and by which moneys are expended to advance, promote, defeat, influence in any way, or initiate a candidate, campaign, political party, referendum or initiated petition in this State.

14. Reimbursement. "Reimbursement" means anything of value received or to be received as repayment for expenditures.

15. Year. "Year" means a 12-month period starting December 1st and ending the following November 30th.

16. Anything of value. "Anything of value" means, but is not limited to:

A. Negotiable items:

- (1) Money;
- (2) A bank bill or note;
- (3) A stock, bond, note or other investment interest in an entity;
- (4) A promissory note, bill of exchange, order, draft, warrant, check or bond given for the payment of money;
- (5) An honorarium or compensation for services;
- (6) The granting of a discount or rebate:
 - (a) Not extended to the public generally; or
 - (b) By a media outlet not extended equally to all candidates for the same office; and
- (7) The sale or trade of something for reasonable compensation that is not available ordinarily to a member of the public;

B. Obligations:

- (1) A contract, agreement, promise or other obligation for an advance, conveyance, forgiveness of indebtedness, deposit, distribution, loan, payment, pledge or transfer of money;
- (2) A receipt given for the payment of money or other property;
- (3) A right in action;
- (4) A promise or offer of employment; and
- (5) An interest in tangible goods or chattel;

C. Property. The retail or fair market value, whichever is greater, of:

- (1) A work of art, an antique or a collectible;
- (2) An automobile or other means of personal transportation;
- (3) Real property or an interest in real property, including title to realty, a fee simple or partial interest, present or future interest contingent or vested in realty, a leasehold interest or other beneficial interest in realty; and
- (4) Other tangible goods; and

D. Other goods or services. The retail or fair market value, whichever is greater, of:

- (1) The purchase of tickets for an event such as a reception, rally or fund-raising event;

(2) A meal or lodging; and

(3) Any service not extended free of charge to other members of the public.

17. State employee or state agency employee. "State employee or state agency employee" means employees of the executive branch, the judicial branch, the Department of the Attorney General, the Department of Secretary of State, the Department of the Treasurer and any employee who directly or indirectly represents an entity listed in Title 5, chapter 379.

3 § 313. Registration of lobbyists and employers

Every employer of a lobbyist and every lobbyist and lobbyist associate who lobbies on behalf of that employer shall register jointly at the office of the commission no later than 15 business days after commencement of lobbying and pay a registration fee of \$200 for the registration of each lobbyist and \$100 for the registration of each lobbyist associate or such other amounts as the commission determines approximate the cost to the commission of administering and enforcing the provisions of this chapter.

3 § 313-A. Registration of state employees or state agency employees

Within 5 days of the convening of a regular legislative session, a state employee or an independent agency employee must register at the office of the commission as described in section 316-A if:

1. Legislative designee. The employee is designated by the head of a department or agency to serve as the primary legislative designee for that department or agency; and

2. Lobbying requirements. The job description of the employee contains lobbying requirements.

An employee registering under this section is exempt from all other requirements under the law regarding lobbyists.

3 § 314. Duration of registration

Each joint registration filed pursuant to this chapter automatically expires on the last day of the year during which the person was registered to lobby, unless as otherwise provided.

A joint registration expires if the employer notifies the commission in writing that the lobbyist is no longer engaged by the employer to lobby. If termination occurs prior to November 30th, the notification must be given within 30 days of the termination.

If termination is effected prior to November 30th, no further reports are required, except that the lobbyist and employer are required to file an annual report pursuant to section 317, subsection 2. The filing of an annual report, signed by the lobbyist and employer, before November 30th is considered a notification of termination.

Any new registration must be filed pursuant to section 313 before any lobbying is commenced after the lobbyist's employment has been terminated.

3 § 315. Registration docket

The commission shall prepare and maintain a docket for the registration of lobbyists and employers of lobbyists required to register pursuant to this chapter. The registration docket and all supplementary files of information and materials filed pursuant to this chapter must be open to public inspection during the office hours of the commission. The docket must contain the name of the lobbyist and the person employing the lobbyist; the business address of each; the nature of the business of the person employing the lobbyist; and a statement as to the compensation that the lobbyist will receive for lobbying services or, if an exact amount is unascertainable, the basis upon which the lobbyist will charge for services. This docket must be updated on a weekly basis and arranged and indexed as follows:

1. Employers of lobbyists. An alphabetical listing of those persons who have employed a lobbyist, which listing must indicate the names of all lobbyists employed by the employer; and

2. Lobbyists. An alphabetical listing of those persons employed as lobbyists, which listing must indicate the names of all persons by whom each lobbyist is employed.

Upon termination of the employment of a lobbyist and the reporting of that termination by the employer, the fact of the termination and the date of the termination must be entered under the name of both the employer and the lobbyist.

The docket must be reestablished annually by the commission and the docket for any year must be maintained and be available for public inspection in the office of the commission for 4 years from the expiration of the docket.

3 § 316. Registration forms

The commission shall prepare and make available registration forms for the registration of lobbyists and employers required to register pursuant to section 313. These forms must include the following information:

1. Names. The name of the lobbyist, a list of the lobbyist associates, the name of the person authorized by the lobbyist to sign the registration and reports for the lobbyist and the name of the person employing the lobbyist;

2. Business addresses. The business address of both the lobbyist and the person employing the lobbyist;

3. Date. The date upon which lobbying commenced or was expected to commence;

4. Nature of business. A description of the nature of the business of the person employing that lobbyist; and

5. Compensation. The amount of compensation that the lobbyist will receive for that lobbyist's services or, if an exact amount is unascertainable, the basis upon which the lobbyist will charge for those services.

These forms must be signed by both the lobbyist and the employer and the signatures serve as a certificate that the information on that form is true, correct and complete.

3 § 316-A. Registration forms for state employees or state agency employees

The commission shall prepare and make available registration forms for the registration of state employees or state agency employees required to register pursuant to section 313-A. These forms must include the following information:

1. Names. The name of the employee and the department or agency the employee is representing; and

2. Position description. A position description.

These forms must be signed by the employee and the signature serves as a certificate that the information on that form is true, correct and complete.

3 § 317. Reports

Reports required by this section must be on forms prescribed or approved by the commission. The forms must provide for a sworn statement that the persons signing the report acknowledge the truth and completeness of all the information contained therein.

1. Monthly session reports. During the period in which the Legislature is in session, every registered lobbyist shall file with the commission, no later than 15 calendar days subsequent to the conclusion of the preceding month, a report concerning the lobbyist's activities for the previous month regarding each employer.

Every lobbyist shall report that lobbyist's lobbying activities for each month that the Legislature is in session, even if no lobbying has been performed or compensation or reimbursement for expenses received for the month. In the case of a lobbyist representing multiple employers, if no lobbying or services in support of lobbying were performed, one report listing each employer on whose behalf no lobbying was conducted may be submitted. The monthly report must contain the following information:

- A. The month to which the report pertains;
- B. The name and address of the lobbyist and employer;
- C. The names of the individuals who lobbied during the month;
- D. The specific dollar amount of compensation received for the preparation of documents and research for the primary purpose of influencing legislative action and for lobbying;

In the case of a regular employee, the specific dollar amount must be computed by multiplying the number of hours devoted to the preparation of documents and research for the primary purpose of influencing legislative action and to lobbying by the employee's regular rate of pay based on a 40-hour week;

E. The specific dollar amount of expenditures made during the month that is the subject of the report with regard to the preparation of documents and research for the primary purpose of influencing legislative action and to lobbying for which the lobbyist has been or expects to be reimbursed;

F. The total amount of money expended directly to or on behalf of one or more officials of the legislative branch, including members of the official's immediate family, and the amount, if any, for which the lobbyist has been or expects to be reimbursed;

G. The name of an official in the legislative branch or a member of that official's immediate family on whose behalf an expenditure or expenditures totaling \$25 or more were made in any one calendar month and the date, amount and purpose of the expenditure or expenditures.

G-1. The date, a description of the event, a list of all officials of the legislative branch or administrative agency or members of an official's immediate family and the total amount of expenditures for the event, if the total amount of the expenditures for officials and family members total \$250 or more;

H. A list of each legislative action by Legislative Document or, if unknown, by Senate Paper or House Paper number or, if unknown, by topic or nomination in connection with which the lobbyist is engaged in lobbying;

I. A list specifically identifying each legislative action, Legislative Document, Senate Paper, House Paper or nomination for which the lobbyist was compensated or expects to be compensated, or expended in excess of \$1,000 for lobbying activities related to those actions and a statement of the amounts compensated or expended for each; and

J. If the lobbyist is required to make a specific list of items under paragraph I, a list of all original sources of any money received from that employer must be included. If the employer or person who contributes to an employer is a corporation formed under Titles 13 or 13-A, nonprofit corporation formed under Title 13-B or limited partnership under Title 31, the corporation, nonprofit organization or limited partnership, not the individual members or contributors, is listed as the original source.

2. Annual report. Thirty days following the end of the year in which any person lobbied pursuant to section 313, the lobbyist and the lobbyist's employer shall file with the commission a joint report that must contain the information required in subsection 1, except that the report must summarize all lobbying activities for the year and report in detail only those legislative actions not previously reported, as required by subsection 1, paragraphs H and I.

The report must include a separate listing of legislative actions for the calendar year reported on pursuant to subsection 1, paragraphs H and I. The reports required by subsection 1 must be signed by the person designated by the lobbyist in section 316, subsection 1. The reports required by this subsection must be signed by both the designated person and the employer.

If the date any report required by this section is due falls on a day other than a regular business day, the report is due on the first regular business day next following the due date.

In addition to the amounts identified in subsection 1 as compensation received or expenditure made for the primary purpose of lobbying, this annual report must include the total amount of compensation received by the lobbyist or the lobbying firm, or expended by the employer, except compensation received or expended for purposes not related to lobbying.

3. Facsimile copies. The commission may, by rules adopted pursuant to the Maine Administrative Procedure Act, Title 5, chapter 375, establish procedures and fees by which facsimile copies of duly executed reports required by this section may be received and filed with the commission.

4. Monthly nonsession reports. When the Legislature is not in regular session, every registered lobbyist must either file:

- A. With the lobbyist's last monthly report for that regular session a statement that the lobbyist will not engage in lobbying activities when the Legislature is not in session. The lobbyist is required to file a monthly report for lobbying activity conducted during a special session; or
- B. If the lobbyist is engaged in lobbying in any of those months, a monthly report in the manner prescribed in subsection 1 even if compensation or reimbursement for expenses has not been received for the month.

If the lobbyist did not expect to be engaged in lobbying when the Legislature was not in session, the commission may waive the requirement for the months between the end of the session and the renewal of lobbying.

3 § 318. Restricted activities

1. Contingent compensation. No person shall accept employment as a lobbyist on a basis which makes that person's compensation contingent in any manner upon the outcome of any legislative action.

2. Instigation of legislative action. No person shall instigate the introduction or commencement of any legislative action for the purpose of obtaining employment as a lobbyist to oppose or support such legislative action.

3 § 319. Penalty

1. Failure to file registration or report. Any person who fails to file a registration or report as required by this chapter may be assessed a fine of \$100 for each person listed or who should have been listed on the lobbyist registration for every month the person fails to register or is delinquent in filing a report pursuant to section 317. The commission may waive the penalty in whole or in part if the commission determines the failure to register or report was due to mitigating circumstances.

1-A. Notice of suspension. Any person who fails to file a report or pay a fee as required by this chapter may be suspended from further lobbying by written notice of the commission until such failure is corrected.

2. [No subsection 2 has been enacted.]

3. Exemption. Notwithstanding section 317, subsection 1, a registered lobbyist is exempt from the penalty imposed under this section if, while the Legislature is convened in special session, the lobbyist failed to file a report with the commission pursuant to section 317 if no lobbying has been performed during that special session.

3 § 320. Disposition of fees

Fees collected pursuant to this chapter must go in equal portions to the General Fund and to the commission.

The commission shall, no later than November 15th of the year prior to any proposed change, establish the amount of the registration fee required to be paid pursuant to section 313 for the subsequent year.

3 § 321. Powers and duties of the commission

In order to carry out the purposes of this chapter, the commission shall have the following powers and duties.

1. Furnishing of forms. The commission shall furnish forms to persons required to register or file reports.

2. Availability of copying facilities. The commission shall make copying facilities available to the public during regular office hours and, notwithstanding any other provisions of law fixing the cost of such services, shall charge the actual cost of such services.

3. Filing of voluntary information. The commission may accept and file any information voluntarily supplied that exceeds the requirements of this chapter.

4. Preservation of registrations and reports. The commission shall preserve all registrations and reports filed pursuant to this chapter for 4 years from date of receipt and may dispose of same.

5. Acceptance or rejection of forms. The commission may prescribe forms for all documents required or permitted to be filed with the commission and may refuse to accept documents not filed on those forms.

6. Refusal of filing. The commission may refuse to accept any document that is not legible or that can not be clearly reproduced photographically.

7. Review reports for completeness. The commission may reject reports that are incomplete.

3 § 322. Enforcement

1. Filing of a complaint. Any person may file a complaint with the commission specifying any alleged violation of this chapter. The commission may notify any named party in the complaint to request that the party comply with the provisions of this chapter or may request that the Attorney General investigate the complaint.

2. Attorney General. The Attorney General may enforce the provisions of this chapter upon request by the commission.

3 § 323. Penalties (REPEALED)

3 § 324. Enforcement (REPEALED)

3 § 325. Powers and duties of the Secretary of State (REPEALED)

3 § 326. Construction

Nothing in this chapter shall be construed to authorize the giving or receiving of a pecuniary benefit where otherwise prohibited by law.